REMARKS

The Office Action dated September 24, 2007, has been received and carefully reviewed. The preceding amendments and the following remarks form a full and complete response thereto. Claim 22–26 have been cancelled without prejudice or disclaimer, Claim 28 has been amended and Claims 41–44 have been added. Thus, Claims 27–44 are pending.

At the outset, Applicants thank the examiner for the indication of allowable subject matter within Claim 28. In response, Claim 28 has been rewritten in independent form including all of the limitations recited by base Claim 27. Accordingly, Claim 28 is in condition for allowance. Additionally, Claims 29–33, 39 and 40, depending from Claim 28, are also in condition for allowance. While the Office Action indicates that Claims 35–37 also depend from Claim 28, these claims actually depend from rejected Claim 34. *See*, Office Action at Page 2.

New Claim 41 further characterizes the block trade order, and support for this claim may be found, for example, on Page 6 (last paragraph) and Page 12 (2nd paragraph) of the Specification. New Claims 42–44 recite substantially the same subject matter as canceled Claims 24 and 26. No new matter has been added, and Applicants respectfully submit that Claims 41–44 are independently allowable over the cited references.

Claims 27, 34 and 38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Freeny (US 6,594,643) in view of an article entitled "Report: Large Order Execution in the Futures Market," The Business Lawyer, 44 Bus. Law. 1335, August 1989, pp. 1–21 (hereinafter the "Business Lawyer"). Applicants traverse.

Applicants respectfully submit that these claims are allowable over the cited references because the Office Action has failed to establish a *prima facie* case of obviousness with respect thereto. *See*, MPEP § 2143. Fundamentally, neither Freeny nor the Business Lawyer teaches or suggests all of the features recited by Claim 27. Furthermore, there is no suggestion in either reference to combine the human-based, <u>manual execution process</u> for a typical block trade on the NYSE floor, described by the Business Lawyer, with Freeny's computer-based, <u>automatic stock trading system</u>. Moreover, Applicants submit that it strains credulity to assert that such a combination would have a reasonable expectation of success.

The Cited References Fail to Disclose All of the Features Recited by Claim 27

Claim 27 is directed to a computer implemented method for executing block trades for a security, and recites, *inter alia*, generating a plurality of executable trade orders to implement a block trade request according to a trading strategy selected from a plurality of trading strategies. The Office Action admits that Freeny "does not explicitly disclose receipt of a *block trade request*; generation of *a plurality* of executable trade orders to implement the received *block trade request*; execution of such orders at *different times*" (Page 5, 1st Paragraph; emphasis in original). Applicants agree, and submit that Freeny also fails to disclose implementing the block trade request according to a *trading strategy selected from a plurality of trading strategies*.

Block Trade Request

While the Office Action admits that Freeny fails to disclose block trade requests, it alleges that "a block trade request is merely a trade request with the user-defined quantity set to the large end of the spectrum," and, as such, is not patentable. *See*,

Office Action at Page 5, 2nd Paragraph ("Anyway, changing a size without more is generally unpatentable."). Applicants disagree.

The claimed invention does "more" than allegedly increasing the size of Freeny's trade request. *To wit*, the claimed block request is implemented according to a trading strategy selected from a plurality of trading strategies, a concept that is entirely absent from Freeny (discussed below). Furthermore, the prior art specifically <u>teaches away</u> from merely submitting large trade requests due to the adverse effect on price that would ensue, as recognized by the Office Action (e.g., Page 5, 3rd Paragraph). *See*, The Business Lawyer at Page 1, 1st Paragraph ("Every so often, traders in both the securities and the futures markets have orders that are so large that merely to bid or offer the entire order could have a disruptive effect on the market -- and make the order difficult to execute").

Trading Strategy Selected From a Plurality of Trading Strategies

The present invention provides network servers that are programmed with specific trading strategy algorithms, that receive trade orders and that execute the trade orders according to their respective trading strategy algorithms. *See*, e.g., Specification at Page 2 (lines 24–27), Page 5 (lines 18–20) ("By providing such servers, a significant advantage over the prior art system (where strategies are executed manually by human traders) is achieved"). Two preferred trading strategies are discussed in detail, i.e., a Volume Weighted Average Price (VWAP) trading strategy (e.g., FIGS. 2A, 2B; Pages 6–10), and a Short-term Price Improvement (SIP) trading strategy (e.g., FIG. 3; Pages 10–19). Other alternatives are contemplated as well. *See*, e.g., Specification at Pages 19–20.

The Office Action alleges that "to buy and/or sell" one or more of Freeny's investment item or products forms "a plurality of trading strategies." *See*, Office Action at Page 3, lines 19–20 ("... a plurality of trading strategies (to buy and/or sell). (see col. 3, line 15 – col. 4, line 11)"). Applicants disagree. The identification of the <u>side</u> to a particular trade or order is <u>not</u> a <u>trading strategy</u>, but a fundamental characteristic of any trade or order. For example, the Specification teaches that the "side" of the trade is specified in <u>each</u> order, which is clearly <u>not</u> the claimed "trading strategy selected from a plurality of trading strategies," such as VWAP, SIP, etc. *See*, e.g., Specification at Page 6, lines 32–33 ("In a typical [VWAP] order, a customer would state a trade side (buy or sell) ..."); Page 12, lines 15–16 ("The SPI order must include a trade side (buy or sell) ..."). Applicants note that new Claim 41 recites several features of the block trade order, including a trade side (buy side or sell side), while new Claims 42–44 recite, more perspicuously, the trading strategies preferred by the present invention.

Furthermore, the Business Lawyer also fails to teach or suggest generating a plurality of executable trade orders to implement said block trade request according to a trading strategy selected from a plurality of trading strategies, as recited by Claim 27. Instead, the Business Lawyer merely discusses the "typical execution process for a block trade on the NYSE," which includes many <u>manual</u> trading steps executed on the floor of the exchange by various human participants. *See*, e.g., Pages 2–3.

Consequently, none of the cited references teaches or suggests generating a plurality of executable trade orders to implement a block trade request according to a trading strategy selected from a plurality of trading strategies, as recited by Claim 27.

One of Ordinary Skill Would Not Combine the Teachings of the References

The Office Action alleges that it would have been "obvious for one of ordinary skill in the art at the time the invention was made to have modified Freeny to incorporate the techniques and methodologies for handling block trade requests, as disclosed by the Business Lawyer" (Page 6, 1st Paragraph). Applicants disagree.

Notwithstanding the references' failure to disclose all of the features recited by Claim 27, there is simply no suggestion in either reference to combine the manual execution process for a typical block trade on the NYSE floor, described within the Business Lawyer, with Freeny's computer-based, automatic stock trading system. Moreover, there is simply no reasonable expectation of success to such an undertaking. The Business Lawyer describes many steps that must be implemented manually by various human participants, including the representatives of the brokerage firm, the two sides "assembled by the upstairs [brokerage] firm" (i.e., the buy side and the sell side), the broker on the floor of the exchange, the specialist on the floor of the exchange, the crowd on the floor of the exchange (which may be allowed to "pick off" part of the block), etc. *See*, Pages 2–3. Applicants submit that Freeny's automatic stock trading system is neither amenable nor adaptable to these sophisticated machinations, and suspect that the Office Action has engaged in impermissible hindsight reconstruction in its rejection of Claim 27.

Consequently, Applicants submit that the Office Action has failed to establish a *prima facie* case of obviousness with respect to Claim 27. Accordingly, this claim is allowable over the cited references. Claims 34–38 and 41–44, depending therefrom, are also allowable, for at least these reasons.

In view of the above, all objections and rejections have been sufficiently addressed. Applicants submit that the application is now in condition for allowance and requests that Claims 27–44 be allowed and this application passed to issue.

In the event that this paper is not timely filled, Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

Respectfully submitted,

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